

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
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2004 JUN -3 P 4: 52

U.S. DISTRICT COURT
DISTRICT OF MASS.
Docket No. 1:04-cv-11108-JLT

OTIS ELEVATOR COMPANY)
Plaintiff;)
)
v.)
)
LOCAL 4, INTERNATIONAL UNION)
OF ELEVATOR CONSTRUCTORS;)
MICHAEL LANGER, INDIVIDUALLY,)
and as BUSINESS MANAGER;)
KEVIN McGETTIGAN, INDIVIDUALLY,)
and as BUSINESS REPRESENTATIVE;)
STEVE MORSE, INDIVIDUALLY, and)
as BUSINESS REPRESENTATIVE;)
and all others conspiring, acting in concert)
or otherwise participating with them or)
acting in their aid or behalf,)
)
Defendants.)

MOTION FOR PRELIMINARY INJUNCTION

Plaintiff Otis Elevator Company ("Otis") moves this Court to schedule a hearing on Otis' Application for Preliminary Injunction in this matter. At the present time a temporary restraining order (the "TRO") is in place enjoining defendants from strikes or other interferences with Otis' operations. By its terms, the TRO is scheduled to expire on June 7, 2004. If Otis' entitlement to preliminary injunctive relief is not decided before the TRO expires, Otis will be exposed to irreparable harm. Otis also requests that the Court's Order enjoining Defendants be extended pending determination of Otis' application for a preliminary injunction.

Otis commenced this action on May 26, 2004 by Verified Complaint seeking a temporary restraining order and preliminary and permanent injunctive relief against a work stoppage by employees represented by Defendant Local 4, International Union of Elevator Constructors

("Local 4"). After Otis initiated this action but before it could be heard on its motion for temporary restraining order, the work stoppage spread to affect Otis operations throughout the Boston area and elsewhere. Local 4 and the other defendants filed an opposition to Otis' Motion for Temporary Restraining Order which conceded some elements of Otis' claim for injunctive relief but disputed others and argued that any order should include certain conditions applicable to Otis.

On May 27, 2004, this Court entered a temporary restraining order enjoining Local 4 and the other Defendants "from calling, causing, inducing, encouraging, authorizing, conducting, continuing in or engaging in any strike, concerted work stoppage, concerted work slowdown, sit-down or refusal to work or any other act or coercion or interference with Plaintiff's normal operations" (the "TRO"). The TRO also restrained Otis from "imposing discipline on Local 4 members over contract disputes . . ." or from "applying to this Court for further equitable relief unless it has first offered to Local 4 the opportunity to arbitrate the underlying dispute pursuant to the Expedited Labor Arbitration Provisions of the American Arbitration Association."

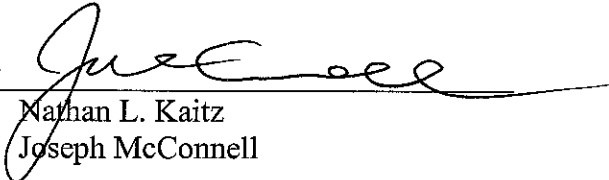
As set forth in Otis' Verified Complaint, Memorandum of Law and supporting declarations, a preliminary injunction should issue restraining the Defendants from engaging in any work stoppage or other interruption of Otis' operations pending a final hearing. Notwithstanding that at least some facts supporting Otis' application for preliminary injunctive relief appear to be undisputed, other facts including the apparent basis for Local 4's requested conditions applicable to Otis are in dispute. Accordingly, Otis requests that the Court schedule a preliminary injunction hearing to go forward promptly. Otis also requests that the TRO provisions restraining Defendants from calling, causing, inducing, encouraging, authorizing, conducting, continuing in or engaging in any strike, concerted work stoppage, concerted work

slowdown, sit-down or refusal to work or any other act of coercion or interference with Otis' normal operations be extended pending the determination of Otis' application for a preliminary injunction.

Respectfully submitted,

Dated at Boston, Massachusetts
June 3, 2004

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ATTORNEYS FOR PLAINTIFF
OTIS ELEVATOR COMPANY

CERTIFICATE OF SERVICE

The foregoing document was served today by hand upon Paul Kelly, Esquire, counsel for defendants, Segal, Roitman & Coleman, 11 Beacon Street, Boston, MA 02108, this 3rd day of June 2004.



BRT.52909.1